

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10451-RWZ

JOSEPH SCHMITT,  
Plaintiff,

v.

JEFFREY SMITH, et al.,  
Defendants.

**DEFENDANTS' MOTION TO STAY ALL FURTHER PROCEEDINGS UNTIL SUCH  
TIME AS THE COURT HAS RULED ON DEFENDANTS' MOTION TO DISMISS, OR  
IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT AND SUPPLEMENT  
THERE TO**

Defendants hereby move this Court to stay all further proceedings, including any future motions which plaintiff may file, until such time as the Court has ruled on Defendants' Motion to Dismiss, or in the Alternative, for Summary Judgment and Supplement thereto. As grounds therefor, as set forth in their motion, defendants are entitled to qualified immunity. Qualified immunity is a shield against the burdens of litigation, not merely a defense against liability for money damages. Mitchell v. Forsyth, 472 U.S. 511, 526 (1985) Accordingly, the Court's determination on the defendants' motion will likely make the need for any further proceedings in this case moot.

Respectfully submitted,

NANCY ANKERS WHITE  
Special Assistant Attorney General

Dated: January 24, 2006

/s/ C. Raye Poole  
C. Raye Poole  
Department of Correction

Legal Division  
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Certificate of Service

I, C. Raye Poole, counsel for the defendants, hereby certify that on this 24<sup>th</sup> day of January 2006, I served a copy of the above motion by first class mail, postage prepaid, on the plaintiff, Joseph Schmitt, at his last known address, Massachusetts Treatment Center, 30 Administration Road, Bridgewater, Massachusetts 02324.

/s/ C. Raye Poole  
C. Raye Poole